

Commodity Futures Trading Commission

§3.11

of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility, to security futures products as defined in section 1a(32) of the Act;

(B) The registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(C) The broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

(ii) The registration will be effective upon the filing of the notice prescribed by the National Futures Association in accordance with the instructions thereto.

(b) *Duration of registration.* (1) A person registered as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant in accordance with paragraph (a) of this section will continue to be so registered until the effective date of any revocation or withdrawal of such registration. Such person will be prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of such registration.

(2) A person registered as an introducing broker who was a party to a guarantee agreement with a futures commission merchant in accordance with §1.10(j) of this chapter will have its registration cease thirty days after the termination of such guarantee agreement unless the procedures set forth in §1.10(j)(8) of this chapter are followed.

(c) *Exemption from registration for certain persons.* A person trading solely for proprietary accounts, as defined in §1.3(y) of this chapter, is not required to register as a futures commission merchant: *Provided*, that such a person remains subject to all other provisions of the Act and of the rules, regulations and orders thereunder.

(d) *Annual filing.* Any person registered as a futures commission mer-

chant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant in accordance with paragraph (a)(1) and (a)(2) of this section must file with the National Futures Association a Form 7-R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. The failure to file the Form 7-R within thirty days following such date shall be deemed to be a request for withdrawal from registration. On at least thirty days written notice, and following such action, if any, deemed to be necessary by the Commission or the National Futures Association, the National Futures Association may grant the request for withdrawal from registration.

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§3.11 Registration of floor brokers and floor traders.

(a) *Application for registration.* (1) Application for registration as a floor broker or floor trader must be on Form 8-R, completed and filed with the National Futures Association in accordance with the instructions thereto. Each Form 8-R filed in accordance with paragraph (a) of this section must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the National Futures Association, except that a fingerprint card need not be filed by any applicant who has a current Form 8-R on file with the Commission or the National Futures Association.

(2) An applicant for registration as a floor broker or floor trader will not be registered or issued a temporary license as a floor broker or floor trader unless the applicant has been granted trading privileges by a board of trade designated as a contract market by the Commission. A temporary license issued to an applicant for registration

as a floor broker who has not been registered as a floor broker within the preceding sixty days will permit such applicant to act in the capacity of a floor trader only.

(3) When the Commission or the National Futures Association determines that an applicant for registration as a floor broker or floor trader is not disqualified from such registration or temporary license, the National Futures Association will provide notification in writing to the applicant and to any contract market that has granted the applicant trading privileges that the applicant's registration or temporary license as a floor broker or floor trader is granted.

(b) *Duration of registration.* A person registered as a floor broker or floor trader in accordance with paragraphs (a) or (c) of this section, and whose registration has neither been revoked nor withdrawn, will continue to be so registered unless such person's trading privileges on all contract markets have ceased: *Provided, That* if a floor broker or floor trader whose trading privileges on all contract markets have ceased for reasons unrelated to any Commission action or any contract market disciplinary proceeding and whose registration is not revoked, suspended or withdrawn is granted trading privileges as a floor broker or floor trader, respectively, by any contract market where he held such privileges within the preceding sixty days, such registration as a floor broker or floor trader, respectively, shall be deemed to continue and no new Form 8-R or Form 3-R need be filed solely on the basis of the resumption of trading privileges. A floor broker or floor trader is prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of such registration or of all such trading privileges. In accordance with §3.31(d), each contract market that has granted trading privileges to a person who is registered, or has applied for registration, as a floor broker or floor trader, must notify the National Futures Association within sixty days after such person's trading

privileges on such contract market have ceased.

(c) *Special registration for certain persons operating at a new contract market.*

(1)(i) *Floor broker.* Any person whose registration as a floor broker has terminated within the preceding sixty days and who is granted trading privileges by any contract market that has made the certification required under §3.40(c) will be granted a temporary license to act in the capacity of a floor broker upon mailing to the National Futures Association of a Form 8-R completed and filed in accordance with the instructions thereto, accompanied by the fingerprints of the floor broker on a fingerprint card provided by the National Futures Association for that purpose and, if applicable, a Supplemental Sponsor Certification Statement signed by the new supervising floor broker (who must meet the requirements set forth in §3.60(b)(2)(i)(A) and (C)) that contains conditions identical to those agreed to by the previous supervising floor broker, provided that such person includes written certifications stating that:

(A) The person's registration as a floor broker is not suspended or revoked; and

(B) There is no pending adjudicatory proceeding against the person under sections 6(c), 6(d), 6c, 6d, 8a or 9 of the Act or §§3.55 or 3.60 and, within the preceding 12 months, the Commission has not permitted the withdrawal of an application for registration in any capacity after initiating the procedures provided in §3.51.

(ii) *Floor trader.* Any person whose registration as a floor trader has terminated within the preceding sixty days and who is granted trading privileges by any contract market that has made the certification required under §3.40(c) will be granted a temporary license to act in the capacity of a floor trader upon mailing to the National Futures Association of a Form 8-R completed and filed in accordance with the instructions thereto, accompanied by the fingerprints of the floor trader on a fingerprint card provided by the National Futures Association for that purpose and, if applicable, a Supplemental Sponsor Certification Statement signed by the new supervising

registrant, principal or contract market (who must meet the requirements set forth in § 3.60(b)(2)(i) (A) and (C)) that contains conditions identical to those agreed to by the previous supervising registrant, principal or contract market, provided that such person includes written certifications stating that:

(A) The person's registration as a floor trader is not suspended or revoked; and

(B) There is no pending adjudicatory proceeding against the person under sections 6(c) 6(d), 6c, 6d, 8a or 9 of the Act or §§ 3.55 or 3.60 and, within the preceding 12 months, the Commission has not permitted the withdrawal of an application for registration in any capacity after initiating the procedures provided in § 3.51.

(C) If such person is seeking registration as a floor broker, the person will be granted a temporary license to act in the capacity of floor trader only if the person's prior registration was not subject to conditions or restrictions.

(D) A temporary license received in accordance with paragraph (c)(1) of this section will be subject to the provisions of §§ 3.41, 3.42 and 3.43.

(2) *Transfer of registration category where there is no break in continuity of trading privileges.* (i) Any person registered as a floor broker who continuously maintains trading privileges at any contract market that has made the certification required under § 3.40 will be registered as, and in the capacity of, a floor trader upon mailing to the National Futures Association of a Form 3-R completed and filed in accordance with the instructions thereto indicating the intention to change registration category, accompanied by evidence of the granting of trading privileges at the new contract market, if applicable. Any person changing registration categories in accordance with this paragraph shall remain subject to any conditions or restrictions applicable to the previous registration.

(ii) Any person registered as a floor trader whose registration is not subject to conditions or restrictions and who continuously maintains trading privileges at any contract market that has made the certification required under § 3.40 will be registered as, and in the

capacity of, a floor broker upon mailing to the National Futures Association of a Form 3-R completed and filed in accordance with the instructions thereto indicating the intention to change registration category, accompanied by evidence of the granting of trading privileges at the new contract market, if applicable.

(d) *Review of floor broker or floor trader registration information.* Every three years, the National Futures Association shall provide each floor broker and floor trader with a printout of information contained in the National Futures Association's registration database regarding such registrant. This printout shall be promptly reviewed by the floor broker or floor trader. If the information contained therein is correct, the floor broker or floor trader need not take any further action. If the information contained therein is incorrect, the floor broker or floor trader must indicate what changes are necessary and return the printout promptly to the National Futures Association with appropriate changes. The failure of a registrant to return the printout will be deemed to constitute recertification of the registration information contained therein: *Provided, however,* That the failure to return the printout promptly to the National Futures Association with appropriate changes, if necessary, shall be deemed a violation of this rule under the Act.

[58 FR 19591, Apr. 15, 1993, as amended at 64 FR 1727, Jan. 12, 1999]

§ 3.12 Registration of associated persons of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

(a) *Registration required.* It shall be unlawful for any person to be associated with a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant as an associated person unless that person shall have registered under the Act as an associated person of that sponsoring futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or